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APPENDIX

PART I. JURISDICTIONAL STATUTES

ACT OF MAY 20, 1924, C. 162, 43 STAT. 133, 134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That jurisdiction be, and is hereby, conferred upon the Court of Claims, notwithstanding the lapse of time or statutes of limitation, to hear, examine, and adjudicate and render judgment in any and all legal and equitable claims arising under or growing out of any treaty or agreement between the United States and the Seminole Indian Nation or Tribe, or arising under or growing out of any Act of Congress in relation to Indian Affairs, which said Seminole Nation or Tribe may have against the United States, which claims have not heretofore been determined and adjudicated on their merits by the Court of Claims or the Supreme Court of the United States.

SEC. 2. Any and all claims against the United States within the purview of this Act shall be forever barred unless suit be instituted or petition filed as herein provided in the Court of Claims within five years from the date of approval of this Act, and such suit shall make the Seminole Nation party plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the Seminoles

approved by the Commissioner of Indian Affairs and the Secretary of the Interior; and said contract shall be executed in their behalf by a committee chosen by them under the direction and approval of the Commissioner of Indian Affairs and the Secretary of the Interior. Official letters, papers, documents, and records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said Indian nation to such treaties, papers, correspondence, or records as may be needed by the attorney or attorneys of said Indian nation.

SEC. 3. In said suit the court shall also hear, examine, consider, and adjudicate any claims which the United States may have against said Indian nation, but any payment which may have been made by the United States upon any claim against the United States shall not operate as an estoppel, but may be pleaded as an offset in such suit.

SEC. 4. That from the decision of the Court of Claims in any suit prosecuted under the authority of this Act, an appeal may be taken by either party as in other cases to the Supreme Court of the United States.

ACT OF FEB. 19, 1929, C. 268, 45 STAT. 1229

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the time within which suits may be instituted under the Act of Congress approved March 19, 1924, entitled "An Act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Cherokee Indians may have

against the United States, and for other purposes"; the Act of Congress approved May 20, 1924, entitled "An Act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Seminole Indians may have against the United States, and for other purposes"; the Act of Congress approved May 24, 1924, entitled "An Act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Creek Indians may have against the United States, and for other purposes"; and the Act of Congress approved June 7, 1924, entitled "An Act conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Choctaw and Chickasaw Indians may have against the United States, and for other purposes", shall be extended to June 30, 1930, to permit each Indian nation or tribe mentioned in said Acts of Congress to institute suits as provided in said Acts and the joint resolution approved May 19, 1926 (Public Resolution Numbered 27, Sixty-ninth Congress).

PART II.° TREATIES AND AGREEMENTS

TREATY OF AUGUST 7, 1856, BETWEEN THE UNITED STATES AND THE CREEK AND SEMINOLE TRIBES OF INDIANS, 11 STAT. 699, 702.

ARTICLE VIII. The Seminoles hereby release and discharge the United States from all claims and demands which their delegation have set up against them, and obligate themselves to remove to and settle in the new country herein provided for them as soon as practicable. In consideration of such release, discharge, and obligation, and as

the Indians must abandon their present improvements, and incur considerable expense in reestablishing themselves, and as the government desires to secure their assistance in inducing their brethren yet in Florida to emigrate and settle with them west of the Mississippi River, and is willing to offer liberal inducements to the latter peaceably so to do, the United States do therefore agree and stipulate as follows, viz: To pay to the Seminoles now west, the sum of sixty[1] thousand dollars, which shall be in lieu of their present improvements, and in full for the expenses of their removal and establishing themselves in their new country; to provide annually for ten years the sum of three thousand dollars for the support of schools; two thousand dollars for agricultural assistance; and two thousand two hundred dollars for the support of smiths and smith shops among them, said sums to be applied to these objects in such manner as the President shall direct. Also to invest for them the sum of two hundred and fifty thousand dollars, at five percent per annum, the interest to be regularly paid over to them *per capita* as annuity; the further sum of two hundred and fifty thousand dollars shall be invested in like manner whenever the Seminoles now remaining in Florida shall have emigrated and joined their brethren in the west, whereupon the two sums so invested, shall constitute a fund belonging to the united tribe of Seminoles, and the interest on which, at the rate aforesaid, shall be annually paid over to them *per capita* as an annuity; but no portion of the principal thus

[1] See Amendment, substituting ninety for sixty, *post*, p. 706.

invested, or the interest thereon annually due and payable, shall ever be taken to pay claims or demands against said Indians, except such as may hereafter arise under the intercourse laws.

ARTICLE IX. The United States agree * * * to expend for them in improvements, after they shall all remove, the sum of twenty thousand dollars * * *.

TREATY OF MARCH 21, 1866, BETWEEN THE UNITED STATES AND THE SEMINOLE NATION, 14 STAT. 755, 756

ARTICLE III. In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Seminoles cede and convey to the United States their entire domain, being the tract of land ceded to the Seminole Indians by the Creek nation under the provisions of article first (1st), treaty of the United States with the Creeks and Seminoles, made and concluded at Washington, D. C., August 7, 1856. In consideration of said grant and cession of their lands, estimated at two million one hundred and sixty-nine thousand and eighty (2,169,080) acres, the United States agree to pay said Seminole nation the sum of three hundred and twenty-five thousand three hundred and sixty-two ($325,362) dollars, said purchase being at the rate of fifteen cents per acre. The United States having obtained by grant of the Creek nation the westerly half of their lands, hereby grant to the Seminole nation the portion thereof hereafter described, which shall constitute the national domain of the Seminole Indians. Said lands so granted by the United States to the Seminole nation are bounded and described as follows, to wit: Beginning on the Canadian river where the

line dividing the Creek lands according to the terms of their sale to the United States by their treaty of February 6, 1866, following said line due north to where said line crosses the north fork of the Canadian river; thence up said north fork of the Canadian river a distance sufficient to make two hundred thousand acres by running due south to the Canadian river; thence down said Canadian river to the place of beginning. In consideration of said cession of two hundred thousand acres of land described above, the Seminole nation agrees to pay therefor the price of fifty cents per acre, amounting to the sum of one hundred thousand dollars, which amount shall be deducted from the sum paid by the United States for Seminole lands under the stipulations above written. The balance due the Seminole nation after making said deduction, amounting to one hundred thousand dollars, the United States agree to pay in the following manner, to wit: Thirty thousand dollars shall be paid to enable the Seminoles to occupy, restore, and improve their farms, and to make their nation independent and self-sustaining, and shall be distributed for that purpose under the direction of the Secretary of the Interior; twenty thousand dollars shall be paid in like manner for the purpose of purchasing agricultural implements, seeds, cows, and other stock; fifteen thousand dollars shall be paid for the erection of a mill suitable to accommodate said nation of Indians; seventy thousand dollars to remain in the United States treasury, upon which the United States shall pay an annual interest of five percent; fifty thousand of said sum of seventy thousand dollars shall be a permanent school fund, the interest of which shall be paid

annually and appropriated to the support of schools; the remainder of the seventy thousand dollars, being twenty thousand dollars, shall remain a permanent fund, the interest of which shall be paid annually for the support of the Seminole government; forty thousand three hundred and sixty-two dollars shall be appropriated and expended for subsisting said Indians, discriminating in favor of the destitute; all of which amounts, excepting the seventy thousand dollars, to remain in the treasury as a permanent fund, shall be paid upon the ratification of said treaty, and disbursed in such manner as the Secretary of the Interior may direct. The balance, fifty thousand dollars, or so much thereof as may be necessary to pay the losses ascertained and awarded as hereinafter provided, shall be paid when said awards shall have been duly made and approved by the Secretary of the Interior. And in case said fifty thousand dollars shall be insufficient to pay all said awards, it shall be distributed pro rata to those whose claims are so allowed; and until said awards shall be thus paid, the United States agree to pay to said Indians, in such manner and for such purposes as the Secretary of the Interior may direct, interest at the rate of five per cent per annum from the date of the ratification of this treaty.

ARTICLE VI. Inasmuch as there are no agency buildings upon the new Seminole reservation, it is therefore further agreed that the United States shall cause to be constructed, at an expense not exceeding ten thousand ($10,000) dollars, suitable agency buildings, the site whereof shall be selected by the agent of said tribe, under the direction of the Superintendent of Indian affairs; in consider-

ation whereof, the Seminole Nation hereby relinquish and cede forever to the United States one section of their lands, upon which said agency buildings shall be *directed* [erected], which land shall revert to said nation when no longer used by the United States, upon said nation paying a fair value for said buildings at the time vacated.

ARTICLE VIII. The stipulations of this treaty are to be a full settlement of all claims of said Seminole nation for damages and losses of every kind growing out of the late rebellion, and all expenditures by the United States of annuities in clothing and feeding refugee and destitute Indians since the diversion of annuities for that purpose, consequent upon the late war with the so-called confederate states. And the Seminoles hereby ratify and confirm all such diversions of annuities heretofore made from the funds of the Seminole nation by the United States. And the United States agree that no annuities shall be diverted from the objects for which they were originally devoted by treaty stipulations with the Seminoles, to the use of refugee and destitute Indians, other than the Seminoles or members of the Seminole nation, after the close of the present fiscal year, June thirtieth, eighteen hundred and sixty-six.

AN ACT TO RATIFY THE AGREEMENT OF DECEMBER 16, 1897, BETWEEN THE DAWES COMMISSION AND THE SEMINOLE NATION, ACT OF JULY 1, 1898, C. 542, 30 STAT. 567, 568, 569

* * * * *

[Second full paragraph on page 568.]

Five hundred thousand dollars ($500,000) of the funds belonging to the Seminoles, now held by the United States, shall be set apart as a permanent

school fund for the education of children of the members of said tribe, and shall be held by the United States at five per cent interest, or invested so as to produce such amount of interest, which shall be, after extinguishment of tribal government, applied by the Secretary of the Interior to the support of Mekasuky and Emahaka Academies and the district schools of the Seminole people; and there shall be selected and excepted from allotment three hundred and twenty acres of land for each of said academies and eighty acres each for eight district schools in the Seminole country.

* * * * *

[Sixth full paragraph on page 568.]

All moneys belonging to the Seminoles remaining after equalizing the value of allotments as herein provided and reserving said sum of five hundred thousand dollars for school fund shall be paid per capita to the members of said tribe in three equal installments, the first to be made as soon as convenient after allotment and extinguishment of tribal government, and the others at one and two years, respectively. Such payments shall be made by a person appointed by the Secretary of the Interior, who shall prescribe the amount of and approve the bond to be given by such person; and strict account shall be given to the Secretary of the Interior for such disbursements.

* * * * *

[Last paragraph on page 569.]

* * * That the same be, and is hereby, ratified and confirmed, and all laws and parts of laws inconsistent therewith are hereby repealed.

PART III. STATUTES

RESOLUTION OF FEBRUARY 22, 1862, NO. 13, 12 STAT. 614

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be authorized to pay out of the annuities payable to the Seminoles, Creeks, Choctaws, and Chickasaws, and which have not been paid, in consequence of the cessation of intercourse with those tribes, so much of the same as may be necessary to be applied to the relief of such portions of said tribes as have remained loyal to the United States, and have been or may be driven from their homes in the Indian Territory into the State of Kansas or elsewhere.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1863, ACT OF JULY 5, 1862, C. 135, 12 STAT. 512, 528

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory (not parties to any treaty) and for pay of necessary employees, fifty thousand dollars: *Provided,* That all appropriations heretofore or hereafter made to carry into effect treaty stipulations, or otherwise, in behalf of any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, may and shall be suspended and postponed wholly or in part at and during the discretion and pleasure of the President: *Provided, further,* That the President is authorized to expend such part of the amount heretofore appropriated and not expended and hereinbefore appro-

priated for the benefit of the tribes named in the preceding proviso as he may deem necessary, for the relief and support of such individual members of said tribes as have been driven from their homes and reduced to want on account of their friendship to the government. And an account shall be kept of the sums so paid for the benefit of such tribe, which account shall be rendered to Congress at the commencement of the next session thereof. And all purchases of articles for the purposes above set forth, shall be made on advertisement, as provided in other cases, and an account shall be rendered of all such purchases, with a statement of the prices paid therefor: *And provided, further,* That in cases where the tribal organization of any Indian tribe shall be in actual hostility to the United States, the President is hereby authorized, by proclamation, to declare all treaties with such tribe to be abrogated by such tribe, if, in his opinion, the same can be done consistently with good faith and legal and national obligations.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1864, ACT OF MARCH 3, 1863, C. 99, 12 STAT. 774, 793

SEC. 3. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby authorized to expend such part of the amount heretofore appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all, or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, as may be found necessary to enable such individual members of said tribes as have been

driven from their homes, and reduced to want on account of their friendship to the United States, to subsist until they can be removed to their homes, and to assist them in such removal: *Provided,* That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to Congress at the commencement of the next session thereof. And all purchases of articles for the purposes above set forth shall be made of the lowest responsible bidder, after sufficient public notice by advertisement in appropriate newspapers: *Provided, also,* That the said Secretary shall not be required to accept any bid which is in his judgment unreasonable in its character.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1865, ACT OF JUNE 25, 1864, C. 148, 13 STAT. 161, 180

SEC. 2. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby, authorized to expend such part of the amount herein appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all, or any portion of whom, shall be in a state of actual hostility to the government of the United States, including the Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, as well as the Cherokees, as may be found necessary to support such individual members of said tribes as have been driven from their homes or reduced to want on account of their friendship to the United States, and enable them to subsist until they can support themselves in their own country: *Provided,* that an account shall be kept of the sums so paid for the benefit of the said members of said

tribes, which account shall be rendered to congress at the commencement of the next session thereof. And all purchases of articles for the purposes above set forth shall be made of the lowest responsible bidder, after sufficient public notice by advertisement in appropriate newspapers: *Provided, also,* That the said secretary shall not be required to accept any bid which is in his judgment unreasonable in its character: *Provided, further,* That no part of said annuities shall be expended for Indians outside of the Indian Territory south of Kansas, except in providing for such individual Indians or families as are sick and unable to remove to that territory, or such as may be driven out of that territory by armed rebels, after the passage of this act.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1866, ACT OF MARCH 3, 1865, C. 127, 13 STAT. 541, 562

SEC. 5. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby, authorized to expend such part of the amount herein appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the government of the United States, including the Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, as well as the Cherokees, as may be found necessary to support such individual members of said tribes as have been driven from their homes or reduced to want on account of their friendship to the United States, and enable them to subsist until they can support themselves in thier own country: *Provided,* That an account shall be kept of the sums

so paid for the benefit of the said members of said tribes, which account shall be rendered to congress, at the commencement of the next session thereof, and all the purchases of articles for the purposes above set forth, shall be made of the lowest responsible bidder after sufficient public notice by advertisement in appropriate newspapers: *Provided, also,* That the said Secretary shall not be required to accept any bid which is in his judgment unreasonable in its character: *Provided, further,* That no part of said annuities shall be expended for Indians outside of the Indian Territory south of Kansas, except in providing for such individual Indians or families as are sick and unable to remove to that territory, or such as may be driven out of that territory by armed rebels, after the passage of this act.

ACT OF APRIL 15, 1874, C. 97, 18 STAT. 29

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Commissioner of Indian Affairs, with the sanction of the Secretary of the Interior and the President of the United States, in distributing and paying annuities, interest, or other moneys now due or hereafter to become due to the Seminole tribe of Indians under the provisions of the eighth article of the treaty between the Creek and Seminole Indians and the United States, concluded August seventh, eighteen hundred and fifty-six, shall be authorized to expend the same for such objects as will best promote the comfort, civilization, and improvement of the Seminole Indians, or in his discretion, with the sanction of the Secretary and the President afore-

said, shall be authorized to pay such annuities or any part thereof into the treasury of the Seminole nation to be used as the council of the same shall provide, instead of paying the same per capita according to the terms of said treaty: *Provided,* That said agreement shall provide that the sum of five thousand dollars shall be annually appropriated out of said annuity to the school fund of said tribe: *And provided further,* That the consent of said tribe to such expenditures and payment shall be first obtained.

ACT OF MARCH 2, 1889, C. 412, 25 STAT. 980, 1004

SEC. 12. That the sum of one million nine hundred and twelve thousand nine hundred and forty-two dollars and two cents be, and the same hereby is, appropriated, out of any money in the Treasury not otherwise appropriated, to pay in full the Seminole Nation of Indians for all the right, title, interest, and claim which said nation of Indians may have in and to certain lands ceded by article three of the treaty between the United States and said nation of Indians, which was concluded June fourteenth, eighteen hundred and sixty-six, and proclaimed August sixteenth, eighteen hundred and sixty-six, and which land was then estimated to contain two million one hundred and sixty-nine thousand and eighty acres, but which is now, after survey, ascertained to contain two million thirty-seven thousand four hundred and fourteen and sixty-two hundredths acres, said sum of money to be paid as follows: One million five hundred thousand dollars to remain in the Treasury of the United States to the credit of said nation of In-

dians and to bear interest at the rate of five per centum per annum from July first, eighteen hundred and eighty-nine, said interest to be paid semi-annually to the treasurer of said nation, and the sum of four hundred and twelve thousand nine hundred and forty-two dollars and twenty cents, to be paid to such person or persons as shall be duly authorized by the laws of said nation to receive the same, at such times and in such sums as shall be directed and required by the legislative authority of said nation, to be immediately available; this appropriation to become operative upon the execution by the duly appointed delegates of said nation, specially empowered so to do, of a release and conveyance to the United States of all the right, title, interest, and claim of said nation of Indians in and to said lands, in manner and form satisfactory to the President of the United States, and said release and conveyance, when fully executed and delivered, shall operate to extinguish all claims of every kind and character of said Seminole Nation of Indians in and to the tract of country to which said release and conveyance shall apply, but such release conveyance, and extinguishment shall not inure to the benefit of or cause to vest in any railroad company any right, title, or interest whatever in or to any of said lands, and all laws and parts of laws so far as they conflict with the foregoing, are hereby repealed, and all grants or pretended grants of said lands or any interest or right therein now existing in or on behalf of any railroad company, except rights of way and depot grounds, are hereby declared to be forever forfeited for breach of condition.

ACT OF JUNE 28, 1898, C. 517, 30 STAT. 495, 502

SEC. 19. That no payment of any moneys on any account whatever shall hereafter be made by the United States to any of the tribal governments or to any officer thereof for disbursement, but payments of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments shall be made direct to each individual in lawful money of the United States, and the same shall not be liable to the payment of any previously contracted obligation.

* * * * *

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1919, ACT OF MAY 25, 1918, C. 86, 40 STAT. 561, 580

That the Secretary of the Interior be, and he is hereby, authorized to pay to the enrolled members of the Seminole Tribe of Indians of Oklahoma entitled under existing law to share in the funds of said tribe, or to their lawful heirs, out of the Seminole school fund, or any moneys belonging to said tribe in the United States Treasury or deposited in any bank or held by an official under the jurisdiction of the Secretary of the Interior, not to exceed $100 per capita: *Provided,* That said payment shall be made under such rules and regulations as the Secretary of the Interior may prescribe: * * *.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1920, ACT OF JUNE 30, 1919, C. 4, 41 STAT. 3, 23

* * * That during the fiscal year ending June 30, 1920, no moneys shall be expended from

tribal funds belonging to the Five Civilized Tribes, without specific appropriation by Congress, except as follows: Equalization of allotments, per capita and other payments authorized by law to individual members of the respective tribes, tribal and other Indian schools for the current fiscal year under existing law, salaries and contingent expenses of governors, chiefs, assistant chiefs, secretaries, interpreters, and mining trustees of the tribes for the current fiscal year at salaries at the rate heretofore paid, and one attorney each for the Choctaw, Chickasaw, and Creek Tribes employed under contract approved by the President, under existing law, for the current fiscal year: * * *.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1921, ACT OF FEB. 14, 1920, C. 75, 41 STAT. 408, 427–428

* * * That hereafter no money shall be expended from tribal funds belonging to the Five Civilized Tribes without specific appropriation by Congress, except as follows: Equalization of allotments, per capita and other payments authorized by law to individual members of the respective tribes, tribal and other Indian schools for the current fiscal year under existing law, salaries and contingent expenses of governors, chiefs, assistant chiefs, secretaries, interpreters, and mining trustees of the tribes for the current fiscal year at salaries at the rate heretofore paid, and one attorney each for the Choctaw, Chickasaw, and Creek Tribes employed under contract approved by the President, under existing law, for the current fiscal year: * * *.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1922 ACT OF MARCH 3, 1921, C. 119, 41 STAT. 1225, 1243

* * * That the Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe: *And provided further,* That the Secretary of the Interior is hereby empowered, during the fiscal year ending June 30, 1922, to expend funds of the Choctaw, Chickasaw, Creek, and Seminole Nations available for school purposes under existing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes. For repair of barn building at Mekusukey Academy, Seminole Nation, Oklahoma, $1,000, payable out of the funds of the Seminole Tribe. * * *

DEPARTMENT OF THE INTERIOR APPROPRIATION ACT FOR THE FISCAL YEAR 1923, ACT OF MAY 24, 1922, C. 199, 42 STAT. 552, 575

* * * That the Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe: * * * That the Secretary of the Interior is hereby empowered, during the fiscal year ending June 30, 1923, to expend funds of the Choctaw, Chickasaw, Creek, and Seminole Nations available for school purposes under existing law for such repairs, improvements, or

new buildings as he may deem essential for the proper conduct of the several schools of said tribes. * * *

DEPARTMENT OF THE INTERIOR APPROPRIATION ACT FOR THE FISCAL YEAR 1924, ACT OF JANUARY 24, 1923, C. 42, 42 STAT. 1174, 1196–1197

* * * That the Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe: * * * That the Secretary of the Interior is hereby empowered, during the fiscal year ending June 30, 1924, to expend funds of the Choctaw, Chickasaw, Creek, and Seminole Nations available for school purposes under existing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes. * * *

DEPARTMENT OF THE INTERIOR APPROPRIATION ACT FOR THE FISCAL YEAR 1925, ACT OF JUNE 5, 1924, C. 264, 43 STAT. 390, 398

* * * That the Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe: * * * That the Secretary of the Interior is hereby empowered, during the fiscal year ending June 30, 1925, to expend funds of the Choctaw, Chickasaw, Creek, and Seminole Nations available for school purposes under exist-

ing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes: * * *

DEPARTMENT OF THE INTERIOR APPROPRIATION ACT FOR THE FISCAL YEAR 1926, ACT OF MARCH 3, 1925, C. 462, 43 STAT. 1141, 1148–1149

* * * That the Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe: * * * That the Secretary of the Interior is hereby empowered, during the fiscal year ending June 30, 1926, to expend funds of the Choctaw, Chickasaw, Creek, and Seminole Nations available for school purposes under existing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes. * * *

DEPARTMENT OF THE INTERIOR APPROPRIATION ACT FOR THE FISCAL YEAR 1927, ACT OF MAY 10, 1926, C. 277, 44 STAT. 453, 460

* * * That the Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe: * * * That the Secretary of the Interior is hereby empowered during the fiscal year ending June 30, 1927, to expend funds of the Choctaw, Chickasaw, Creek, and Sem-

inole Nations available for school purposes under existing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes. * * *

DEPARTMENT OF THE INTERIOR APPROPRIATION ACT FOR THE FISCAL YEAR 1928, ACT OF JAN. 12, 1927, C. 27, 44 STAT. 934, 948

The Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe and to expend such funds available for school purposes under existing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes.

DEPARTMENT OF THE INTERIOR APPROPRIATION ACT FOR THE FISCAL YEAR 1929, ACT OF MARCH 7, 1928, C. 137, 45 STAT. 200, 216

The Secretary of the Interior is hereby authorized to continue during the ensuing fiscal year the tribal and other schools among the Choctaw, Chickasaw, Creek, and Seminole Tribes from the tribal funds of those nations, within his discretion and under such rules and regulations as he may prescribe and to expend such funds available for school purposes under existing law for such repairs, improvements, or new buildings as he may deem essential for the proper conduct of the several schools of said tribes: *Provided,* That there may be expended from the tribal funds of

the Seminole Nation the sum of $33,000, and from the tribal funds of the Choctaw Nation the sum of $135,000, for educational purposes: * * *

DEPARTMENT OF THE INTERIOR APPROPRIATION ACT FOR THE FISCAL YEAR 1930, ACT OF MARCH 4, 1929, C. 705, 45 STAT. 1562, 1577

For the support of schools and for tuition among the Five Civilized Tribes, there may be expended from tribal funds of such nations $250,000 as follows: Seminole Nation $33,000; * * *

PART IV. MISCELLANEOUS

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
Washington, D. C., August 23, 1898.

The honorable the SECRETARY OF THE INTERIOR.
Aug. 16, 1898.

SIR: I have received your letter, without date, as follows:

> The Indian appropriation act approved July 1, 1898 (Public, No. 175), makes the following appropriations for the Seminole tribe or nation of Indians:
>
> "For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per *eighth* article of treaty of August seventh, eighteen hundred and *fifty-six,* twelve thousand five hundred dollars;
>
> "For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity (they having joined their brethren West) per *eighth* article of treaty of August seventh, eighteen hundred and *fifty-six*, twelve thousand five hundred dollars;

"For interest on fifty thousand dollars, at the rate of five per centum per annum, to be paid annually for the support of schools, as per *third* article of treaty of March twenty-first, eighteen hundred and *sixty-six,* two thousand five hundred dollars;

"For interest on twenty thousand dollars, at the rate of five per centum per annum, to be paid annually for the support of the Seminole government, as per *same article, same treaty,* one thousand dollars; in all, twenty-eight thousand five hundred dollars."

The treaty of August 7, 1856, with the Creeks and Seminoles (11 Stat., 699), secured to the said tribes respectively the right of self-government and contained the following stipulations in that connection:

"ARTICLE IV. The United States do hereby solemnly agree and bind themselves, that no State or Territory shall ever pass laws for the government of the Creek or Seminole Tribe of Indians, and that no portion of either of the tracts of country defined in the first and second articles of this agreement shall ever be embraced or included within, or annexed to, any Territory or State, nor shall either, or any part of either ever be erected into a Territory without the full and free consent of the legislative authority of the tribe owning the same.

* * * * *

"ARTICLE XV. So far as may be compatible with the constitution of the United States, and the laws made in pursuance thereof, regulating trade and intercourse with the Indian tribes, the Creeks and Seminoles shall be secured in the unrestricted right of self-government, and full jurisdic-

tion over persons and property, within their respective limits; excepting, however, all white persons, with their property, who are not, by adoption or otherwise, members of either the Creek or Seminole tribe; * * *"

The first two items of appropriation hereinbefore mentioned are in fulfillment of that part of Article VIII, of this treaty, wherein the United States agrees and stipulates with the Seminoles—

"* * * Also to invest for them the sum of two hundred and fifty thousand dollars, at five per cent per annum, the interest to be regularly paid over to them *per capita* as annuity; the further sum of two hundred and fifty thousand dollars shall be invested in like manner whenever the Seminoles now remaining in Florida shall have emigrated and joined their brethren in the west, whereupon the two sums so invested shall constitute a fund belonging to the United tribe of Seminoles, and the interest on which, at the rate aforesaid, shall be annually paid over to them *per capita* as an annuity; * * *."

The Seminole treaty of March 21, 1866 (14 Stat. 757), contains the following provision respecting the continuation of the tribal government:

"ARTICLE VII. The Seminole nation agrees to such legislation as Congress and the President may deem necessary for the better administration of the rights of person and property within the Indian Territory: *Provided, however,* That said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs."

The last two items of appropriation hereinbefore mentioned are in fulfillment of that part of the third article of the treaty of

March 21, 1866, wherein the United States agreed to pay to the Seminoles the further sum of—

"* * * seventy thousand dollars, to remain in the United States treasury, upon which the United States shall pay an annual interest of five percent; fifty thousand of said sum of seventy thousand dollars shall be a permanent school fund, the interest of which shall be paid annually and appropriated to the support of schools; the remainder of the seventy thousand dollars, being twenty thousand dollars, shall remain a permanent fund, the interest of which shall be paid annually for the support of the Seminole government; * * *."

As affecting the first two items of appropriation hereinbefore mentioned the act of Congress of April 15, 1874 (18 Stat. 29), provides:

"That the Commissioner of Indian Affairs, with the sanction of the Secretary of the Interior and the President of the United States, in distributing and paying annuities, interest, or other moneys now due or hereafter to become due to the Seminole tribe of Indians under the provisions of the eighth article of the treaty between the Creek and Seminole Indians and the United States, concluded August seventh, eighteen hundred and fifty-six, shall be authorized to expend the same for such objects as will best promote the comfort, civilization, and improvement of the Seminole Indians, or in his discretion, with the sanction of the Secretary and the President aforesaid, shall be authorized to pay such annuities or any part thereof into the treasury of the Seminole nation to be used as the council of the same shall provide, instead of paying the same

per capita according to the terms of said treaty: *Provided*, That said agreement shall provide that the sum of five thousand dollars shall be annually appropriated out of said annuity to the school fund of said tribe: *And provided further*, That the consent of said tribe to such expenditures and payment shall be first obtained."

By the act of the Seminole legislature (also called council) of April 2, 1879, the tribe consented that all annuities then due or thereafter to become due to it under the provision of the 8th article of the said treaty of August 7, 1856, should be paid into the Treasury of the Seminole nation to be used as the council of the same should provide, instead of being paid per capita according to the terms of said treaty, and by said Seminole act it was further provided that the sum of $5,000 should be annually appropriated out of said annuity to the school fund of said tribe. In pursuance of said act of Congress of April 15, 1874, and of the consent of the tribe so given by the act of its legislature, the Commissioner of Indian Affairs, with the sanction of the Secretary of the Interior and the President of the United States, has since April 2, 1879, regularly paid into the treasury of the Seminole nation, to be used as the council of the same should provide, the annuities due to said tribe under the provisions of the 8th article of the said treaty of August 7, 1856, and the sum of $5,000 has annually been appropriated by the said tribe out of said annuity to the school fund of said tribe.

Following the said act of Congress of April 15, 1874, and the Seminole act of April 2, 1879, the Commissioner of Indian Affairs in his discretion, with the sanction of the

Secretary of the Interior and the President of the United States, now desires to pay into the treasury of the Seminole nation as heretofore the annuities named in the first two items of appropriation hereinbefore mentioned, to be used as the council of the same shall provide, if section 19 of the act of Congress of June 28, 1898 (Public, No. 162), entitled "An Act for the protection of the people of the Indian Territory and for other purposes", does not prohibit the further payment of said annuities into the tribal treasury.

Heretofore the money annually appropriated by Congress for the support of the Seminole schools and for the support of the Seminole government, respectively, in fulfillment of the 3d article of the treaty of March 21, 1866, has been paid under the direction of the Secretary of the Interior to the treasurer of said tribe, to be applied to said purposes and expended according to the laws of the tribe, and it is now desired by the Commissioner of Indian Affairs and the Secretary of the Interior that the moneys embraced in the last two items of appropriation hereinbefore mentioned shall now be paid as heretofore to the treasurer of said tribe to be applied to said purposes and expended according to the laws of the tribe, if section 19 of the act of Congress of June 28, 1898, *supra,* does not prohibit the further payment of said moneys to the tribal treasurer.

By act of Congress of March 2, 1889 (25 Stat. 980, 1004), certain moneys were appropriated to pay the Seminoles for the release and conveyance of certain lands, which moneys were to be paid as follows:

"* * * One million five hundred thousand dollars to remain in the Treasury of

the United States to the credit of said nation of Indians and to bear interest at the rate of five per centum per annum from July first, eighteen hundred and eighty-nine, said interest to be paid semiannually to the treasurer of said nation, and the sum of four hundred and twelve thousand nine hundred and forty-two dollars and twenty cents to be paid to such person or persons as shall be duly authorized by the laws of said nation to receive the same, at such times and in such sums as shall be directed and required by the legislative authority of said nation, to be immediately available * * *."

Upon the execution and delivery of the required release and conveyance, the said sum of $412,942.20 was paid to the treasurer of the tribe, he being authorized by a law of the nation to receive the same, and since then the semiannual interest on the said $1,500,000 has been regularly paid "to the treasurer of said nation" to be used, applied, and expended according to the laws of the tribe. An instalment of this interest fell due July 1, 1898, but this Department is not yet advised whether it has been paid to the tribal treasurer or is being withheld pending the consideration of the provisions of section 19 of the act of June 28, 1898, *supra*.

The four items of appropriation for the Seminoles made by the Indian appropriation act of July 1, 1898, *supra,* and the annual interest on the $1,500,000, under the act of March 2, 1889, *supra,* make the total annual income or revenue of the Seminoles from funds held by the United States $103,500.00. Under the laws of that nation or tribe this income or revenue is appropri-

ated, used, applied, and expended in the payment of the expenses of maintaining and conducting the tribal government, including an executive office, a legislature (or council), courts, constabulary, public schools, charitable and penal institutions, public roads, and bridges, etc., the annual appropriation for public schools being $24,000.

The act of Congress of June 28, 1898 (Public No. 162), entitled "An Act for the protection of the people of the Indian Territory and for other purposes", chiefly relates to the affairs and government of the Five Civilized Tribes of Indians in said Territory, the Seminole tribe being one of them. Section 19 of this act provides:

"That no payment of any moneys on any account whatever shall hereafter be made by the United States to any of the tribal governments or to any officer thereof for disbursement, but payments of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments shall be made direct to each individual in lawful money of the United States and the same shall not be liable to the payment of any previously contracted obligation."

This section as it passed the House of Representatives did not contain the words "by the United States" following the words "hereafter be made" in the first part of the section, but did contain the words "all expenses incurred in transacting their business and of" following the words "but payments of" near the middle of the section. In the course of the consideration of the measure in the Senate the section was amended

by inserting the words "by the United States" as above indicated, and by striking out the words "all expenses incurred in transacting their business and of", as above indicated. A copy of the bill, H. R. 8581, as it passed the House of Representatives, with the Senate amendments shown therein, accompanied the letter of the Acting Secretary of the Interior of the 23d ultimo, requesting a ruling by you respecting the payment of certain appropriations made for the Creek Indians.

By act of Congress of July 1, 1898 (Public, No. 172), entitled "An Act to ratify the agreement between the Dawes commission and the Seminole nation of Indians", an agreement negotiated between the Seminoles and the Dawes commission, bearing date December 16, 1897, was ratified by Congress and all laws and parts of laws inconsistent therewith were thereby repealed. This agreement seems to recognize the existing tribal government of the Seminoles and to contemplate a continuance thereof for the time being, although it also seems to contemplate and to be intended to lead up to, an ultimate extinguishment of the tribal government. The effect of this agreement upon existing treaty stipulations is therein stated in these words:

"This agreement shall in nowise affect the provisions of existing treaties between the Seminole nation and the United States except insofar as it is inconsistent therewith."

The only provisions in this agreement regulating the payment of money to the Seminole tribe, are contained in the three following stipulations therein:

"Should there be discovered on any allotment any coal, mineral, coal oil, or natural

gas, and the same should be operated so as to produce royalty, one-half of such royalty shall be paid to such allottee and the remaining half into the tribal treasury *until extinguishment of tribal government,* and the latter shall be used for the purpose of equalizing the value of allotments; and if the same be insufficient therefor, any other funds belonging to the tribe, *upon extinguishment of tribal government,* may be used for such purpose, so that each allotment may be made equal in value as aforesaid.

* * * * *

"Five hundred thousand dollars ($500,000) of the funds belonging to the Seminoles, now held by the United States, shall be set apart as a permanent school fund for the education of children of the members of said tribe, and shall be held by the United States at five per cent interest, or invested so as to produce such amount of interest, which shall be, *after extinguishment of tribal government,* applied by the Secretary of the Interior to the support of Mekasuky and Emahaka Academies and the district schools of the Seminole people; * * *

* * * * *

"All moneys belonging to the Seminoles *remaining after equalizing the value of allotments as herein provided* and reserving said sum of five hundred thousand dollars for school funds shall be paid per capita to the members of said tribe in three equal instalments, the first to be made as soon as convenient *after* allotment and *extinguishment of tribal government,* and the others at one and two years, respectively. Such payments shall be made by a person appointed

by the Secretary of the Interior, who shall prescribe the amount of and approve the bond to be given by such person; and strict account shall be given to the Secretary of the Interior for such disbursements."

A question has arisen whether the money due to the Seminole tribe under the Indian appropriation act of July 1, 1898, aforesaid, and the interest on the $1,500,000 under the act of March 2, 1889, aforesaid, can all, or any of it, be now paid into the tribal treasury, as heretofore, or whether such money must be paid out and disbursed "under direction of the Secretary of the Interior by an officer appointed by him" pursuant to section 19 of the act of June 28, 1898, aforesaid.

The Seminole tribe insist that all of said money can be, and should be, paid as heretofore, into the tribal treasury, to be applied and expended according to the laws of the tribe. In this connection the tribe contends:

First, That section 19 only prohibits the payment of money "to any of the tribal governments or to any officer thereof *for disbursement*", and that the word "disbursement", as here employed, means distribution in the sense of a division among the members and does not include the payment of expenses incurred in the course of maintaining and conducting the tribal government. It is claimed that this is shown (a) by the striking out of the words "all expenses incurred in transacting their business and of" from the section as it passed the House of Representatives; (b) by the fact that otherwise construed the two parts of the section are not coextensive or harmonious, the first part of the section withholding all moneys of every kind from the

tribal government and its officers, while the succeeding part of the section only regulates payments to members or per capita payments; in other words, that no provision is made for the payment of the expenses of maintaining and conducting the tribal government to which the moneys are appropriated and applied under the tribal laws, the new and substituted provision for disbursement only applying to payments to members or per capita payments, while the expenses incurred in maintaining and conducting the tribal government are not incurred on the per capita plan and in many instances are to be paid to persons who are not members of the tribe, as in the case of payments to teachers in the public schools; (c) by the fact that contemporaneously with the adoption of section 19, and as a part of the same act (sections 29 and 30), agreements with the Choctaws and Chickasaws and with the Muscogees or Creeks were ratified, containing the following stipulations, respectively:

"That all per capita payments hereafter made to the *members* of the Choctaw or Chickasaw nations shall be paid directly to each individual member by a bonded officer of the United States, under the direction of the Secretary of the Interior, which officer shall be required to give strict account for such disbursements to said Secretary.

"All payments hereafter to be made to the members of the said nation shall be paid directly to each individual member by a bonded officer of the United States, under the direction of the Secretary of the Interior, which officer shall be required to give strict account for such disbursements to the Secretary."

and by the fact that the Seminole agreement ratified almost simultaneously (July 1, 1898) contains a similar provision (hereinbefore quoted), all being limited to a regulation of payments to members or per capita payments—the claim advanced in this connection being that the provisions of these three agreements upon this subject are *in pari materia* with section 19 and all should be construed together, and that so construed section 19 does not include payments which are not otherwise directed by law to be made to members or per capita; (d) by the fact that the following provision of the act of June 7, 1897 (30 Stat. 62, 84):

"That on and after January first, eighteen hundred and ninety-eight, all acts, ordinances, and resolutions of the council of either of the aforesaid Five Tribes passed shall be certified immediately upon their passage to the President of the United States and shall not take effect, if disapproved by him, or until thirty days after their passage: *Provided,* That this act shall not apply to resolutions for adjournment, or any acts, or resolutions, or ordinances in relation to negotiations with commissioners heretofore appointed to treat with said tribes."

was entirely repealed as to the Seminoles by the terms of the agreement with that tribe ratified July 1, 1898, and was repealed as to tribal laws appropriating money for the regular and necessary expenses of the tribal government by the agreements with the Choctaws and Chickasaws and with the Muscogees or Creeks ratified by the act of June 28, 1898, thereby manifesting the intention of Congress to commit to these tribes the full control heretofore exercised over

the expenses of maintaining and conducting the tribal governments.

SECOND. That section 19 does not require that money payable in any other form or manner be changed or converted into payments to members or per capita payments, but only directs that such payments to members or per capita payments as are elsewhere and otherwise provided for by law shall be made under the direction of the Secretary of the Interior, according to the provisions of that section. In this connection the tribe claims that by the action of the tribe and of the Commissioner of Indian Affairs, under the act of April 15, 1874, *supra*, the interest payments provided for by the eighth article of the treaty of August 7, 1856, which include the first two items of appropriation hereinbefore mentioned, were changed and converted from per capita payments into payments for school and other tribal purposes; that the payments of interest provided for by the third article of the treaty of March 21, 1866, which include the last two items of appropriation hereinbefore mentioned, and the payments of interest provided for by the act of March 2, 1889, *supra*, have never been directed to be made to members or per capita but were directed to be made otherwise; and that therefore the pending payments to the Seminole tribe, under the Indian appropriation act of July 1, 1898, and the act of March 2, 1889, do not any of them come within the provisions of section 19.

THIRD. That if section 19, properly construed, applies to the payment of the expenses of maintaining and conducting the tribal governments it is repealed, as to the Seminole tribe, by the subsequent act of

July 1, 1898, ratifying the new agreement with that tribe and repealing "all laws and parts of laws inconsistent therewith", because that agreement, as a whole and in every essential particular, shows that the intent and purpose of Congress and the Seminole tribe was to continue the existing tribal government with all of its official machinery, until the affairs of the tribe are concluded and the tribe is ready to go out of existence.

Because of the importance of the questions presented, and the necessity of having an authoritative decision thereof, I beg that under the provisions of the act of July 31, 1894 (28 Stat. 162, 208), you will decide whether the moneys appropriated for the Seminole tribe, by the Indian appropriation act of July 1, 1898, and the interest money provided for by the act of March 2, 1889, can now, as heretofore, be paid into the tribal treasury, or whether such moneys are now required to be paid or disbursed "under the direction of the Secretary of the Interior by an officer appointed by him", pursuant to the provisions of section 19 of the act of June 28, 1898.

It seems unnecessary to enter into a critical analysis of the language of section 19 of the act of June 28, 1898 (Public, No. 162), for reasons which will presently appear.

The agreement made between the Dawes Commission and the Seminole Indians, December 16, 1897, was ratified by Congress by the act of July 1, 1898 (Public, No. 172). The enacting clause of this act provides:

> That the same be, and is hereby, ratified and confirmed, *and all laws and parts of laws inconsistent therewith are hereby repealed.*

If section 19 of the act of June 28, 1898, is inconsistent with the provisions of the agreement, which was ratified by the act of July 1, 1898, the former has been repealed so far as the Seminole Indians are concerned.

There is a clause in the agreement as follows:

> This agreement shall in nowise affect the provisions of existing treaties between the Seminole Indians and the United States, except insofar as it is inconsistent therewith.

From the foregoing it clearly appears that the rights and duties of the Seminole Indians are to be measured by the provisions of existing treaties construed in the light of and together with the agreement of December 16, 1897.

> This agreement shall be binding on the United States when ratified by Congress and on the Seminole people when ratified by the general council of the Seminole Nation.

The agreement has been ratified by both parties, and, therefore, it will control in the disposition of the question presented.

From the presentation of the case as it appears in your letter it seems to me clear that it was not the intention of the agreement, nor does that instrument in fact deprive the Seminole tribal government of its privilege and duty of disbursing its own funds *prior to the time of the extinguishment of its tribal government,* which extinguishment is evidently contemplated in the near future; therefore, I am of opinion that the moneys due these Indians can be turned over to the tribal authori-

ties for disbursement until such time as the tribal government shall be extinguished.

Respectfully yours,

L. P. MITCHELL,
Assistant Comptroller.
J. D. T.

CCM 7

TREASURY DEPARTMENT,
OFFICE OF COMPTROLLER OF THE TREASURY,
WASHINGTON, *October 19, 1906.*

The honorable the SECRETARY OF THE INTERIOR.

SIR: I have received your letters of October 8 and 12, 1906 (I. T. D.) in reference to the method of disbursing moneys due the Seminole tribe of Indians. The questions upon which you ask my decision are the following:

1. Whether, under the provisions of sections 11 and 28 of the act of April 26, 1906 (34 Stat. 137), expenditures from the tribal funds and distribution of annuities arising therefrom to members of the Seminole tribe should be made by the tribal authorities of the Seminole Nation or under the direction of the Secretary of the Interior.

2. Whether the Secretary of the Interior is authorized, under section 10 of the act of April 26, 1906 (34 Stat. 137), to refuse to turn over the interest due the Seminole Nation from its school funds to its tribal authorities, and to retain the same to be used under the direction of the Secretary in defraying the expenses of schools in the Seminole Nation.

The act referred to is entitled "An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and for other purposes." Sections 10, 11, 28, and 29, so far as they affect the questions are as follows:

> SEC. 10. That the Secretary of the Interior is hereby authorized and directed to assume control and direction of schools in the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, with the lands and all school property pertaining thereto, March fifth, nineteen hundred and six, and to conduct such schools under rules and regulations to be prescribed by him, retaining tribal educational officers, subject to dismissal by the Secretary of the Interior, and the present system so far as practicable, until such time as a public-school system shall have been established under Territorial or State government, and proper provision made thereunder for the education of the Indian children of said tribes, and he is hereby authorized and directed to set aside a sufficient amount of any funds, invested or otherwise, in the Treasury of the United States, belonging to said tribes, including the royalties on coal and asphalt in the Choctaw and Chickasaw nations, to defray all the necessary expenses of said schools, using, however, only such portion of said funds of each tribe as may be requisite for the schools of that tribe, not exceeding in any one year for the respective tribes the amount expended for the scholastic year ending June thirtieth, nineteen hundred and five; * * *.
>
> SEC. 11. That all revenues of whatever character accruing to the Choctaw, Chicasaw, Cherokee, Creek, and Seminole tribes,

whether before or after dissolution of the tribal governments, shall, after the approval hereof, be collected by an officer appointed by the Secretary of the Interior under rules and regulations to be prescribed by him; and he shall cause to be paid all lawful claims against said tribes which may have been contracted after July first, nineteen hundred and two, or for which warrants have been regularly issued, such payments to be made from any funds in the United States Treasury belonging to said tribes. All such claims arising before dissolution of the tribal governments shall be presented to the Secretary of the Interior within six months after such dissolution, and he shall make all rules and regulations necessary to carry this provision into effect and shall pay all expenses incident to the investigation of the validity of such claims or indebtedness out of the tribal funds: * * *.

SEC. 28. That the tribal existence and present tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes or nations are hereby continued in full force and effect for all purposes authorized by law, until otherwise provided by law, but the tribal council or legislature in any of said tribes or nations shall not be in session for a longer period than thirty days in any one year: *Provided,* That no act, ordinance, or resolution (except resolutions of adjournment) of the tribal council or legislature of any of said tribes or nations shall be of any validity until approved by the President of the United States: *Provided further,* That no contract involving the payment or expenditure of any money or affecting any property belonging to any of said tribes or nations made by them or any of

them or by any officer thereof shall be of any validity until approved by the President of the United States.

SEC. 29. That all Acts and parts of Acts inconsistent with the provisions of this Act be, and the same are hereby, repealed.

In the decision of this office, dated August 23, 1898 (7 MS. Dec. 350), it was held that section 19 of the act of June 28, 1898 (30 Stat. 502), requiring that no moneys on any account whatever should be paid to tribal authorities, but be paid out under the direction of the Secretary of the Interior, did not apply to the Seminoles. The reason for that holding was that the later act of July 1, 1898 (30 Stat. 567), ratifying and confirming an agreement with the Seminoles, expressly repealed all laws and parts of laws inconsistent with the later act. It was therefore further held that the act of June 28, 1898, *supra*, did not deprive the Seminole tribal government of its privilege and duty of disbursing its own funds prior to the extinguishment of its tribal government.

The act of April 26, 1906, *supra*, by section 28, specifically continues the tribal existence and present tribal governments of the Five Civilized Tribes and naming each of them.

Your first question can only be answered by considering whether section 11 of the act of 1906 does deprive the Seminole tribal government of its right to disburse its own funds while the tribal government continues, a right which the Controller held was preserved in the agreement between the United States and the Seminoles, ratified July 1, 1898.

Under treaties of August 7, 1856, and March 21, 1866, the Seminoles are entitled to appropriations

of $28,500 each year, being the interest at five per centum per annum on $570,000. Such appropriations are made from year to year. By the act of March 2, 1889 (25 Stat. 1004), it was provided that $1,500,000, a part of the price of lands purchased by the United States from the Seminoles, should remain in the Treasury and five per centum per annum thereon should be paid semiannually to the treasurer of the Seminole Nation. By the agreement which was ratified in the act of July 1, 1898 (30 Stat. 567), it was provided that:

> Five hundred thousand dollars ($500,000) of the funds belonging to the Seminoles, now held by the United States, shall be set apart as a permanent school fund for the education of children of the members of said tribe, and shall be held by the United States at five percent interest, or invested so as to produce such amount of interest, which shall be, after extinguishment of tribal government, applied by the Secretary of the Interior to the support of Mekasuky and Emahaka Academies and the district schools of the Seminole people.

By the act of April 15, 1874 (18 Stat. 29), it was provided that the annual payment of $25,000 under the treaty of 1856 might be paid into the treasury of the Seminole Nation to be used as the council of the Nation should provide, if the tribe consented thereto and agreed to appropriate $5,000 annually for the school fund. This consent and agreement was given and made by the Seminoles.

An examination of the language in the first sentence in section 11 of the act of April 26, 1906, *supra,* makes it clear that the revenues accruing

to the tribes, which revenues are to be collected by an officer appointed by the Secretary of the Interior, do not include the interest on moneys of the Seminole tribe in the Treasury of the United States. By treaty, law, and agreement with the Seminoles such interest is required to be paid into the tribal treasury. Neither the act of 1906, nor earlier laws, make specific provision for the distribution of the interest money among the members of the tribe. There is, in my opinion, no authority in section 11 for the Secretary to make distribution of annuities arising from tribal funds to members of the Seminole tribe. Neither from the language of the section, nor by implication, can such authority be found. Nor is there authority in that section for the Secretary to apply such interest to the payment of any obligations except lawful claims against the tribe contracted after July 1, 1902, or for which warrants have been regularly issued. As to such claims and such warrants full authority is given to the Secretary of the Interior to use any fund in the United States Treasury belonging to the tribe to make payment, and that authority continues as to claims contracted or warrants issued prior to dissolution of the tribal government.

In answer to your first question, I am of the opinion that expenditures from the tribal funds, and distribution of annuities arising therefrom to members of the Seminole tribe should be made by the tribal authorities of the Seminole Nation, subject, however, to the approval of the President so far as required by section 28 of the act; and except as the right and duty is devolved upon you to

disburse so much of the funds as is necessary to carry out the requirements of section 11 as to payment of lawful claims and warrants, and to carry out the requirements of section 10 as to schools.

I answer your second question in the affirmative. Section 10 of the act of April 26, 1906, contains specific authority and direction for you to assume control and direction of the schools in the Seminole tribe, and to use the money of the tribe, invested or otherwise, in the Treasury of the United States, not exceeding in any one year the amount expended for the scholastic year ended June 30, 1905.

I have not overlooked the briefs you forwarded and the argument made by counsel for the Seminoles, that the treaties and agreements made by the United States are contracts which cannot be modified by Congress without the consent of the tribe, and that Congress cannot dispose of the moneys and property of the tribe at will.

I have not discust this question because, so far as the Controller is concerned, the plain requirements of the latest act of Congress are to be followed. Such an act may repeal an earlier act or a treaty. Whether the later act invades property rights of the tribe, or annuls contracts and confiscates Seminole property, as is contended, is not a question for my decision. Nor has the Controller authority to right such wrongs if they exist or give compensation therefor.

I have, however, given full weight to the principle that an Act of Congress should not be construed to repeal in whole or in part a treaty right unless such a construction is required by the language used in such act.

I return the letters and papers which you transmitted.

Respectfully,

R. J. TRACEWELL,
Comptroller.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,
Washington, July 12, 1898.

THE SECRETARY OF THE INTERIOR.

SIR: By your communication of July 9, 1898, I am asked for an opinion whether section 19 of an act of Congress approved June 28, 1898 (Public, No. 162), entitled "An act for the protection of the people of the Indian Territory, and for other purposes", applies to the Seminole Nation of Indians.

Said section is as follows:

> That no payment of any moneys on any account whatever shall hereafter be made by the United States to any of the tribal governments or to any officer thereof for disbursement, but payments of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments shall be made direct to each individual in lawful money of the United States, and the same shall not be liable to the payment of any previously contracted obligation.

It is submitted that until the passage of this act it had been the practice of this Department, under the laws and regulations then in force, to deposit "such funds" in bulk with the Assistant

Treasurer of the United States, at St. Louis, to the credit of the treasurers of "these tribes", to be disbursed by them in their own way, under the laws of their respective nations.

By the expression "such funds" and "these tribes", used in your communication, I take it is meant moneys due any of the five civilized tribes from the United States government. The practice of this Department, therefore, has been to deposit any moneys, subject to disbursement on account of these tribes, with the Assistant Treasurer, at St. Louis, to the credit of the treasurers thereof, to be disbursed by them without the further supervision of the government.

Section one of the act, *supra,* provides that the word "officer", where the same appears in the criminal laws theretofore extended over and put in force in the Indian Territory, shall include all officers "of the several tribes or nations of Indians in said Territory."

Section 2 authorizes and requires the Judge of a United States Court of any district in said Territory to make "any tribe" of Indians a party to any suit pending in his court where it appears that the property of such tribe is in any way affected by the issues being heard.

Section 3 confers jurisdiction on the United States district courts in said Territory to try cases against persons who claim to hold lands and tenements as members of a tribe, and whose membership is denied by the tribe, and provides that "if it be found upon trial that the same are held unlawfully against the tribe by those claiming to be members thereof, and the membership and right

are disallowed by the commission to the *Five Tribes,* or the United States court * * * then said court shall cause the parties charged with unlawfully holding said possessions to be removed from the same and cause the lands and tenements to be restored to the person or persons or nation or tribe of Indians entitled to the possession of the same."

Section 4 provides "That all persons who have heretofore made improvements on lands belonging to any one of the said tribes of Indians" may under certain conditions sell and dispose of the same.

Section 11 provides for the allotment of lands when the roll of citizenship of "any one of said nations or tribes" is fully completed.

Section 15 provides, "That there shall be a commission in each town for each one of the Chickasaw, Choctow, Creek and Cherokee tribes", who shall cause to be surveyed and laid out townsites.

Section 16 makes it unlawful for any person to claim, demand, or receive any royalty or rents on any lands or property belonging to "any one of said tribes or nations in said Territory."

Section 17 provides that it shall be unlawful for "any citizen of any one of said tribes" to hold possession of more than his approximate share of the allotted lands.

It is apparent from these excerpts from the act that section 19 prohibits the payment by the United States of moneys on any account whatever to officers or tribal governments of *any* of the five civilized tribes.

The Seminole Indians, as such, are nowhere mentioned in the act, but these Indians constitute one

of the five civilized tribes, and are within the inhibition of said section, unless, as to them, it has been repealed by subsequent legislation.

An act approved July 1, 1898 (Public, No. 172), ratified the agreement of December 16, 1897, between the Dawes Commission and the Seminole Nation of Indians. One of the stipulations of that agreement was, that:

> All moneys belonging to the Seminoles remaining after equalizing the value of allotments as herein provided, and reserving said sum of five hundred thousand dollars for school fund, shall be paid per capita to the members of said tribe in three equal instalments, the first to be made as soon as convenient, after allotment and extinguishment of the tribal government. Such payments shall be made by a person appointed by the Secretary of the Interior, who shall prescribe the amount of and approve the bond to be given by such person; and strict account shall be given to the Secretary of the Interior for such disbursements.

The act *supra,* which ratifies and confirms this agreement, repeals "all laws and parts of laws inconsistent therewith."

There is nothing in the language quoted inconsistent with the provisions of section 19 of the act of June 28, 1898, *supra.* Indeed, these provisions in the two acts are substantially the same. The provision in the Seminole act that "all moneys belonging to the Seminole Indians * * * shall be paid *per capita* to the members of said tribe", the first payment to be made after the "extinguishment of tribal government" "by a person appointed

by the Secretary of the Interior", is the substantial equivalent of the language used in the general act that payments shall not be made "to any of the tribal governments or any officer thereof", but shall be made per capita direct to each individual, "under direction of the Secretary of the Interior by an officer appointed by him."

I have therefore to advise that section 19 of the act of June 28, 1898, applies to the Seminole Nation of Indians. Moreover, it results from what has been hereinbefore said that whether that act applies or not, the manner of disbursement under the Seminole act must be the same.

Very respectfully,

WILLIS VAN DEVANTER,
Assistant Attorney General.

DEPARTMENT OF THE INTERIOR,
July 12, 1898.

Approved:
THOS. RYAN,
Acting Secretary.

CONGRESSIONAL RECORD, 55TH CONGRESS, 2ND SESSION, VOL. 31, PART IV, PAGE 3869 (APRIL 14, 1898)

As introduced, the Curtis Bill (H. R. 8581, 55th Congress) provided in Section 19 as follows:

> That no payment of any moneys on any account whatever shall hereafter be made to any of the tribal governments or to any officer thereof for disbursement, but payments of all expenses incurred in transacting their business and of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments

shall be made direct to each individual in lawful money of the United States, and the same shall not be liable to the payment of any previously contracted obligation.

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Disbursement Schedule No. 42—Continued

Treaty of August 7, 1856, 11 Stat. 699	Fiscal year		
	1870	1871	1872
ARTICLE 8			
Per capita payments	$19,679.00	$12,500.00	$12,374.55
Cash payments to individuals	* 17,821.00		
MISCELLANEOUS ITEMS			
Pay of miscellaneous employees			74.10
Total	37,500.00	12,500.00	12,448.65

(Continued on next page.)

* Authorized to be paid out of annuity money by an act of the General Council of the Seminole Nation, dated April 8, 1870. (Settlement No. 7243-1870.)

GENERAL ACCOUNTING OFFICE REPORT, PAGE 153

Disbursement Schedule No. 42—Continued

Treaty of August 7, 1856, 11 Stat. 699	Fiscal year		
	1873	1874	1875
ARTICLE 8			
Per capita payments	$12,401.00		$25,082.25
Payment of drafts on Seminole Nation		* $11,101.64	
Cash payments to Seminole Treasurer		13,898.42	
Total	12,401.00	25,000.06	25,082.25

(Continued on next page.)

* Authorized to be paid out of annuity money by an act of the General Council of the Seminole Nation, dated April 28, 1874. (Settlement No. 5968-1874.)

GENERAL ACCOUNTING OFFICE REPORT, PAGE 154

Disbursement Schedule No. 42—Continued

Treaty of August 7, 1856, 11 Stat. 699	Fiscal year		
	1876	1877	1878
ARTICLE 8			
Per capita payments		$36,381.00	$24,924.90
Expenses of delegations	$500.00		
Cash payment to Seminole Treasurer		590.50	75.10
Total	500.00	36,971.50	25,000.00

(Continued on next page.)

GENERAL ACCOUNTING OFFICE REPORT, PAGE 155

Disbursement Schedule No. 42—Continued

Treaty of August 7, 1856, 11 Stat. 699	Fiscal year		
	1879	1880	1881
ARTICLE 8			
Per capita payments	$12,046.00		
Cash payments to Seminole Treasurer	12,500.00	$25,454.00	$25,000.00
Total	24,546.00	25,454.00	25,000.00

(Continued on next page.)

GENERAL ACCOUNTING OFFICE REPORT, PAGE 156

Disbursement Schedule No. 42—Continued

Treaty of August 7, 1856, 11 Stat. 699	Fiscal year		
	1882	1883	1884
ARTICLE 8			
Cash payments to Seminole Treasurer	$25,028.60	$25,182.29	$25,000.00
Total	25,028.60	25,182.29	25,000.00

(Continued on next page.)

GENERAL ACCOUNTING OFFICE REPORT, PAGE 308

ABSTRACT NO. 10

Abstract of disbursements made by the United States for the benefit of the Seminole Nation of Indians from moneys appropriated pursuant to and in connection with the Treaties of August 7, 1856, 11 Stat. 699, and March 21, 1866, 14 Stat. 755, during the period from July 1, 1907, to June 30, 1930.

Schedule No.	Name of appropriation or fund	Amount disbursed
57	Fulfilling Treaties with Florida Indians, or Seminoles	(a) $71, 250. 00
58	Interest on Seminoles of Oklahoma Fund	(b) 204, 780. 00
59	Seminoles of Oklahoma Fund	(c) 570, 050. 00
	Total	(d) 846, 080. 00

(a) See page 24, Item (p).
(b) See page 307, Item (b).
(c) See page 306, Item (c).
(d) See page 305, Item (b); also page 5, Item (j).

GENERAL ACCOUNTING OFFICE REPORT, PAGE 309

DISBURSEMENT SCHEDULE NO. 57

Disbursements made by the United States for the benefit of the Seminole Nation of Indians under the appropriation:

Fulfilling Treaties with Florida Indians, or Seminoles [a]

	Fiscal year		
	1908	1909	1910
Administrative expenses, Seminole National Government	$42, 747. 00	$11, 002. 96	
Per capita payments			$15, 200. 00
Total	42, 747. 00	11, 002. 96	15, 200. 00

(Continued on next page)
[a] For dates of appropriation acts, statute references and amounts appropriated, see pages 326 to 329.